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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,547	04/01/2004	Chad D. Tillman	1098 1030.1	9998
26158 7590 10/07/2010 WOMBLE CARLYLE SANDRIDGE & RICE, PLLC ATTN: PATENT DOCKETING P.O. BOX 7037 ATLANTA, GA 30357-0037				
			EXAMINER	
			IWARERE, OLUSEYE	
			ART UNIT	PAPER NUMBER
			3687	
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			10/07/2010 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/816,547

Applicant(s)

TILLMAN, CHAD D.

Examiner

OLUSEYE IWARERE

Art Unit

3687

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-12, 14-16, 35-38, 41-43, 55-58 and 64-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-7, 12, 14-16, 35-38, 41-43, 55-58 and 64-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to the correspondence received on 6/04/2010. The claims and remarks have been entered and considered below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1, 2, 7 – 12, 14 – 16, 41 – 43, 58 and 64 – 67, 71 – 77 and 81 – 89 are rejected under 35 U.S.C. 102(e) as being anticipated by Sweeney (2005/0004837).**

As per claims 1, 58, 64, 65 and 89, Sweeney discloses a computer implemented method of providing to a customer customized media at a physical point of sale (PPOS) at a time of a sales transaction for a good/service comprising the steps of:

storing a plurality of customer media profiles in a computer database, each of the customer media profiles comprising a customer identifier and a media content type identifier associated with the customer identifier, the media content type identifier identifying a type of information (abstract discusses storing user profiles and type of information);

receiving a customer identifier from a customer at a point of sale computer located proximate to the PPOS, the point-of-sale computer being in electronic communication with the database (abstract, discusses receiving an identifier through the user profile);

retrieving from the database a media profile that is associated with the customer identifier received from the customer, by the point-of-sale computer (abstract discusses retrieving a media profile from the point of sale computer);

generating an item of current information, the content of the generated item of current information being determined by the time of sales transaction for the good/service and the type of information identified in the retrieved media profile (abstract discusses generating a vendor offering based on the profile); and

communicating the generated item of current information to the customer at the PPOS proximate to the time of the sales transaction (abstract discusses communicating the generated item).

As per claims 2 and 67, Sweeney discloses wherein the step of communicating the generated item of current time-sensitive information comprises providing to the customer at the PPOS a printed publication including the generated item of current information ([0287] discusses a printed publication).

As per claims 7 and 81, Sweeney discloses wherein the step of communicating the generated item of current time-sensitive information comprises wirelessly

transmitting at the PPOS the item of current information to the customer ([0037] discusses wireless transmission).

As per claim 8 and 82, Sweeney discloses wherein the step of communicating the generated item of current time-sensitive information comprises wirelessly transmitting at the PPOS the item of current information to a mobile computer device of the customer ([0037] discusses wireless transmission).

As per claim 9 and , Sweeney discloses wherein the step of communicating the generated item of current time-sensitive information comprises wirelessly transmitting at the PPOS the item of current information to a personal digital assistant of the customer ([0037] discusses wireless transmission).

As per claim 10, Sweeney discloses wherein the step of communicating the generated item of current time-sensitive information comprises wirelessly transmitting at the PPOS the item of current information to a personal communication device of the ([0037] discusses wireless transmission).

As per claim 11, Sweeney discloses wherein the step of communicating the generated item of current time-sensitive information comprises wirelessly transmitting at the PPOS the item of current information to a web-enabled telephone of the customer ([0037] discusses wireless transmission).

As per claim 12, 71 and 83, Sweeney discloses wherein the media profile is unique to the customer (abstract, discusses a unique customer profile).

As per claims 14, 75 and 87, Sweeney discloses further comprising receiving, via a communications network, a plurality of media profiles, wherein the customer selects the media content type when setting up or editing the media profile (abstract discusses selecting media content).

As per claims 15, 76 and 88, Sweeney discloses wherein the setting up or editing of the media profile by the customer is accomplished online via the Internet (abstract discusses selecting media content).

As per claims 16 and 77, Sweeney discloses wherein the item of current time-sensitive information includes information obtained over a communications network at the time of the sales transaction of the good or service (abstract discusses obtaining over the internet).

As per claim 41, wherein the generated item of current time-sensitive information includes audio ([0287] discusses speech and video).

As per claim 42, wherein the generated item of current time-sensitive

information includes audio-video ([0287] discusses speech and video).

As per claim 43, wherein the generated item of current time-sensitive information includes images and/or pictures ([0287] discusses images).

As per claims 72 and 84, Sweeney discloses wherein the identifier uniquely identifies a class of customers from a plurality of classes of customers ([0113] discusses a class of users).

As per claims 73 and 85, Sweeney discloses wherein the classes of customers are mutually exclusive ([0113] discusses a class of users).

As per claims 74 and 86, Sweeney discloses wherein the identifier uniquely identifies a subset of classes of customers from a set of a plurality of classes of customers ([0113] discusses a class of users being identified by email address).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 – 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweeney in view of Examiner's Official Notice.

As per claims 3, 4, 35 – 38 and 68 – 70, 78 – 80 , Sweeney discloses the claimed invention but fails to explicitly disclose wherein the step of communicating the generated item of current information comprises printing the item of current time-sensitive information on a sleeve of a coffee cup that is provided to the customer at the PPOS;

wherein the step of communicating the generated item of current information comprises printing the item of time-sensitive information on a tray mat that is provided to the customer;

wherein the step of communicating the generated item of current information comprises printing the item of current information on packaging of a good that is sold to the customer;

wherein the step of communicating the generated item of current information comprises printing the item of current information on a bag in which a good is provided to the customer.

However, Instead Sweeney discloses a generic printed product individualized for the customer in the abstract. The Examiner takes Official Notice that printing product information on a coffee cup, a tray mat, a packaging of a good or a bag are old and well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include these features.

6. Claims 55 – 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweeney in view of Herwig (2002/0082925).

As per claims 55 – 57, Sweeney discloses the claimed invention but fails to explicitly disclose, wherein the identifier comprises an account number of a loyalty program in which the customer is enrolled, wherein the identifier comprises a public key of a public private key pair of the customer and wherein the step of receiving an identifier at the time of the sale of the good or service comprises reading the identifier from a magnetic stripe card of the customer at the PPOS.

Herwig teaches a Method and apparatus for utilizing a smart card to maintain a retail application on a number of portable, wireless hand-held computing devices wherein the identifier comprises an account number of a loyalty program in which the customer is enrolled ([0002] discusses a loyalty program);

wherein the identifier comprises a public key of a public private key pair of the customer ([0003] discusses the identifier); and

wherein the step of receiving an identifier at the time of the sale of the good or service comprises reading the identifier from a magnetic stripe card of the customer at the PPOS ([0003] discusses a magnetic stripe).

From this teaching of Herwig, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Sweeney to

include the customer account number of a loyalty program, the identifier and the magnetic stripe, taught by Herwig, in order to further provide customer-specific retail service.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUSEYE IWARERE whose telephone number is (571)270-5112. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on (571)272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/O.I/

/Matthew S Gart/
Supervisory Patent Examiner, Art Unit 3687